

**CHRONOLOGY OF FACTS
RELATED TO ACTIONS OF THEN-JUDGE BOBBY DELAUGHTER
IN *EATON CORPORATION v. FRISBY*¹**

July 9, 2004 – Commencement of Case, and assignment to Judge DeLaughter.

October 21, 2005 – Jack Dunbar appointed as Special Master by agreement of, and at the suggestion of, the parties.

November 2005 – Milan Georgeff, the main fact witness upon whom Eaton had predicated its case, produced a copy of Eaton’s agreement to compensate him. The document was produced during the course of separate litigation filed by Georgeff in North Carolina to which Eaton was not a party. Eaton’s agreement provided for payment for Georgeff’s time and also guaranteed him a job if he lost employment for any reason. “In consideration” of those promises Georgeff agreed to provide testimony as to certain detailed “factual premises” drafted by Eaton’s lawyer.

Eaton had previously filed sworn answers denying that it had any such agreement and had not produced or identified the agreement or the more than 50 documents which related to the inducements promised to Georgeff.

January 4, 2006 – Defendants moved to dismiss case based on the fact that Eaton had provided financial inducements to a fact witness and had intentionally and falsely concealed that fact during discovery.

March 31, 2006 – Preliminarily finding the agreement with Georgeff improper, Judge DeLaughter directed that Special Master Dunbar consider the discovery violations to determine whether they were intentional and who was responsible.

June 13, 2006 – Special Master Dunbar determined that Eaton had committed discovery violations with respect to the Georgeff agreement. Dunbar recommended additional discovery to determine whether those violations were intentional and who was responsible. This Report and Recommendation was approved by Judge DeLaughter on July 24, 2006.

June through the end of September 2006 – Under the Special Master’s supervision, discovery as to Eaton’s discovery violations was conducted. Eaton submitted documents and answered interrogatories. Defendants deposed several Eaton attorneys including outside counsel, Michael Allred. The Special Master attended each of the depositions.

December 5, 2006 – Special Master Dunbar issued a Report and Recommendation (under seal) detailing his conclusions that Eaton and its attorneys had committed serious and intentional discovery violations. It was clear that Eaton and its lawyers would have

¹ Case No. 251-04-642-CIV, Circuit Court, Hinds County, Mississippi.

been subject to serious sanctions – including perhaps the loss of law licenses – if Dunbar’s recommendation was approved by Judge DeLaughter.

Early December, 2006 – When it became clear that Special Master Dunbar’s R&R would find that Eaton and its attorneys had committed serious, intentional discovery violations, Eaton hired Ed Peters as a “secret lawyer.” Ed Peters made no appearance as counsel. Eaton intended to conceal the involvement of Peters.

January 17, 2007 – Judge DeLaughter cancelled the argument related to Jack Dunbar’s R&R previously scheduled by agreement of the parties.

February 2, 2007 – Mike Allred filed a notice of withdrawal as counsel for Eaton. It later became clear that Allred had continued to serve as counsel – and that Allred’s withdrawal as counsel of record was purely cosmetic.

March 15, 2007 – Ed Peters copied counsel for defendants – clearly by mistake – on an e-mail in which he advised the lawyers for Eaton as to how to deal with the latest pleading filed by Frisby, as follows: “I would respond to their response that we agree w/ Defs that the pending issue about discovery does not need to be rehashed & that the Court should enter it's ruling without further pleadings or hearing.”

April 6, 2007 – Judge DeLaughter issued a Memorandum Opinion rejecting most of Special Master Dunbar’s findings of fact. Judge DeLaughter’s opinion is under seal. However, Judge DeLaughter described his opinion in an unsealed Memorandum Opinion and Order of October 29, 2007, in which he stated:

The special master, in his report and recommendation of June 13, 2006, declined to recommend dismissal, but found that several of Eaton's private lawyers and Eaton itself, through one of its general counsel, were guilty of intentional discovery abuses. On judicial review, the Court found that the record before the special master supported only his findings concerning Michael Allred, one of Eaton's private local attorneys who is no longer representing Eaton in this cause.² **All other findings of the special master were rejected and modified by the Court.** (Emphasis added.)

Judge DeLaughter’s April 16 Order indicated an intention to impose only minimal sanctions against Eaton and Allred, but Judge DeLaughter never actually imposed any sanctions whatsoever. **In sum, Eaton “got away with it.”** Moreover, Judge DeLaughter kept all of the documents related to this matter under seal.

Rule 53 required that Judge DeLaughter accept Special Master Dunbar’s factual findings unless they were “manifestly erroneous.” Thus, the factual findings of the Special Master were the equivalent of a jury verdict. MISS. R. CIV. P. 53; *Merch. Fert. & Phos. Co. v.*

² Allred actually continued to represent Eaton after he withdrew as counsel of record.

Standard Cotton Gin, 23 So. 2d 906, 907 (Miss. 1945). Nonetheless, Judge DeLaughter reversed the factual findings with little or no discussion of the evidence, in effect simply ignoring them. **Judge Yerger subsequently found that Judge DeLaughter should have accepted the findings of fact.**

June 4, 2007 – Judge DeLaughter denied Defendants’ request for reconsideration of the Report and Recommendation with only a snide comment as explanation.

June 4, 2007 – Judge DeLaughter dissolved the existing stay and denied the motion of Defendants for a stay of all proceedings until conclusion of the pending criminal case. This caused the parties to begin a hotly contested dispute over the trial date and the schedule for concluding discovery. The trial date and discovery schedule was a critical point of dispute – since the trial date and schedule would impact whether the Engineers would have to give a deposition before their criminal trial.

June 14, 2007 – Special Master Dunbar recommended that the Engineer Defendants be deposed after the then-scheduled criminal trial – but still within the time period for discovery as established by Judge DeLaughter.

June 21, 2007 – Judge DeLaughter rejected Dunbar’s recommendation – thus requiring that the Engineer Defendants appear and testify or invoke the Fifth Amendment before the criminal trial. It was very much to the benefit of Eaton that the Engineers testify or invoke the Fifth Amendment before the criminal trial.

June 25, 2007 – The Supreme Court granted a temporary stay of the depositions of the Engineers.

August 20, 2007 – After the Supreme Court dissolved its own stay, Judge DeLaughter directed discovery to proceed, including the depositions of the criminal defendants.

Fall of 2007 – The Engineer Defendants sought relief in federal court. Judge Tom Lee called Judge DeLaughter to request postponement of the depositions. Judge DeLaughter initially acceded to the request but refused to continue to postpone the depositions when the criminal trial was rescheduled.

October 10, 2007 – Special Master Dunbar recommended sanctions for Eaton’s failure to provide discovery with respect to trade secrets – based on prior orders of Judge DeLaughter requiring that Eaton provide such discovery. (Judge DeLaughter subsequently refused to follow this recommendation, notwithstanding that he had approved the earlier recommendation. Judge Yerger later substantially adopted the recommendation of Jack Dunbar.)

October 23, 2007 – Special Master Dunbar recommended that Eaton be required to provide testimony at a 30(b)(6) deposition on matters critical to the case.

October 25, 2007 – Ed Peters contacted Larry Latham to ask if Latham would serve as Special Master. At the time, neither Dunbar nor any lawyer for the Defendants knew that Judge DeLaughter was giving consideration to replacing Jack Dunbar as Special Master.

Thus, it is indisputable that Peters knew that Dunbar was to be replaced before it happened.

October 29, 2007 – DeLaughter issued an Order – allegedly *sua sponte* – removing Dunbar as a Special Master. On the same day DeLaughter delivered a letter to Latham. That letter noted that Latham had agreed to serve as Special Master – a fact which Latham testified he had made known only to Peters.

It is clear that DeLaughter knew that Peters had talked with Latham – a fact which he could have learned only from *ex parte* communications with Peters.

November, 2007 – Ed Peters left word with Larry Latham’s assistant that Latham was not to mention his name at a meeting with all counsel.

It is clear that there was an intent to conceal the fact that Peters had talked with DeLaughter about the replacement of Special Master Dunbar.

The replacement of Jack Dunbar was a very significant development in this litigation, especially given Special Master’s Dunbar’s rulings on the discovery violations and his series of rulings (continuing until days before he was removed) that rejected Eaton’s continued effort to avoid identifying the trade secrets which Eaton claims were improperly used in this case.

November 15, 2007 – Judge DeLaughter issued an Order rejecting Special Master Dunbar’s Report and Recommendation of October 10, 2007 – thus denying any sanctions or relief as to material that the Special Master found should have been produced pursuant to a prior Report and Recommendation that had been approved by Judge DeLaughter in 2006. **This Ruling was later substantially reversed by Judge Yerger.**

December 2007 – Media reports alleged improper conduct by Peters and DeLaughter in *Wilson v. Scruggs*.

January 4, 2008 – DeLaughter recuses himself from the Eaton litigation, citing the investigation into alleged improper conduct.

January 28, 2008 – Larry Latham requests an emergency hearing with Judge Yerger at which he resigns as Special Master.